

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RONALD SHAMON and PATRICIA SHAMON,)
Plaintiffs,)
v.)
UNITED STATES OF AMERICA,)
Defendant.)
) Docket No. 04cv11674-WGY

**DEFENDANT'S CONCISE STATEMENT OF MATERIAL FACTS
AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED**

1. Plaintiffs, Ronald and Patricia Shamon (Mr. and Mrs. Shamon, respectively) bring negligence and loss of consortium claims against the Government under the Federal Torts Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b) and 2671, et seq. Complaint ¶1.
2. Mr. Shamon claims that on December 7, 2001, Chi Zhang, M.D., who was then employed by the Department of Veterans Affairs ("VA"), negligently perforated Mr. Shamon's rectum with a scope instrument during a sigmoidoscopy examination. Complaint ¶¶9, 27; Deposition of Ronald Shamon ("R. Shamon Dep.") pp. 53-55, attached to Memorandum of Law in Support of its Motion for Partial Summary Judgment ("Defendant's Memorandum of Law") as Exhibit A.
3. As a result of that perforation, Mr. Shamon claims that he later developed numerous perirectal abscesses in his colon. Complaint ¶27.
4. Mrs. Shamon, Mr. Shamon's wife, asserts a claim for loss of

consortium. Complaint ¶¶29-31.

5. Mr. and Mrs. Shamon were not married on December 7, 2001. R. Shamon Dep. p. 8; Deposition of Patricia Shamon ("P. Shamon Dep.") p. 12, attached to Defendant's Memorandum of Law as Exhibit B; Plaintiff Ronald Shamon's Objections and Responses to Defendant's Interrogatories ("R. Shamon's Interrogatory Responses") No. 14, attached to Defendant's Memorandum of Law as Exhibit C.
6. Prior to December 7, 2001, Mr. and Mrs. Shamon had been living together since June 15, 1987. P. Shamon Dep. pp. 11-12.
7. Although she and Mr. Shamon had decided to get married since 1988, they did not set a date until the summer of 2001. P. Shamon Dep. pp. 11, 19.
8. Before moving from Florida to Massachusetts in 1988, Mr. and Mrs. Shamon did not hold themselves out as a married couple. P. Shamon Dep. pp. 7, 12-14.
9. Before getting married, Mr. and Mrs. Shamon did not file joint tax returns or jointly own their home. P. Shamon Dep. pp. 12, 15.
10. Mr. and Mrs. Shamon had a joint savings account since 1988. P. Shamon Dep. pp. 14-15.
11. When Mr. and Mrs. Shamon moved to Massachusetts in 1998 and before getting married, Mrs. Shamon told some of her

neighbors that she and Mr. Shamon were married because she felt embarrassed to tell them the truth. P. Shamon Dep. pp. 12-14.

12. Before getting married, Mr. and Mrs. Shamon told their family and friends that they were not married. P. Shamon Dep. p. 14.

13. During the summer of 2001, Mr. Shamon gave Mrs. Shamon an engagement ring and they set a wedding date for December 10, 2001. P. Shamon Dep. pp. 17, 19.

14. Sometime between December 7, 2001, and December 10, 2001, Mr. and Mrs. Shamon canceled the December 10, 2001 wedding because of Mr. Shamon's alleged injury on December 7, 2001. P. Shamon Dep. pp. 21-22.

15. Mr. and Mrs. Shamon never obtained a wedding license, or contacted friends, family members, a place to have the wedding ceremony, a caterer or a reception hall prior to December 10, 2001, in order to plan a wedding. P. Shamon Dep. pp. 16, 21-23.

16. After Mr. Shamon's release from the West Roxbury VA Hospital on December 21, 2001, Mr. Shamon began to exhibit traits that he did not have prior to that date. P. Shamon Dep. pp. 36, 39-49, 53-57.

17. On December 21, 2001, Mrs. Shamon immediately noticed physical and emotional changes in Mr. Shamon. P. Shamon

Dep. pp. 36, 39-49, 53-57.

18. Specifically, Mrs. Shamon noticed that Mr. Shamon was physically weak, suffering from headaches, unable to sleep, distraught, very emotional, irritable, and no longer interested in sexual activity. P. Shamon Dep. pp. 36, 39-49, 53-57.
19. Mr. Shamon's physical and emotional changes had an adverse affect on Mrs. Shamon. P. Shamon Dep. pp. 57-59.
20. Mrs. Shamon began to suffer from the adverse affects of Mr. Shamon's physical and emotional changes on or about December 21, 2001. P. Shamon Dep. pp 36, 39-49, 53-59.
21. On April 12, 2002, Mr. and Mrs. Shamon were married. R. Shamon Dep. p. 8; P. Shamon Dep. p. 12.

Respectfully submitted,

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